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Letter dated 26 March 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 9 October 2003 (S/2003/1011). The Counter-Terrorism Committee has received the attached fourth report from Liechtenstein submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 23 March 2004 from the Permanent Mission of Liechtenstein to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Representative of the Principality of Liechtenstein to the United Nations presents his compliments to the Chairman of the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) and has the honour to transmit herewith the fourth report in accordance with operative paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

Enclosure*

Fourth report of the Principality of Liechtenstein to the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) 16 March 2004

Liechtenstein submits the following additional information to the Security Council Committee established pursuant to Resolution 1373 (2001) concerning Counter-Terrorism (CTC), pursuant to the letter of the CTC in this regard of 3 October 2003. Previous reports are contained in the documents S/2002/1253 of 27 December 2001, S/2002/788 of 26 June 2002, and S/2003/273 of 10 February 2003. The Government of Liechtenstein notes that most of the questions addressed in the letter refer to the requirements of "Stage B" of the CTC's work (emphasizing the strengthening of States' executive machinery) and underlines its commitment to cooperate actively with the CTC throughout the remaining stages.

1. Implementation measures

Effectiveness in the protection of the financial system

1.1 The third report from Liechtenstein states (at page 4) that a package of legislation on combating terrorism will be discussed soon in its Parliament and the proposed new article 278d of the Criminal Code will meet some of the requirements of paragraph 1 of the Resolution. The CTC would appreciate receiving a progress report on the enactment of the aforementioned legal provisions.

The Liechtenstein Parliament adopted the counter-terrorism package on 22 October 2003. The deadline for an optional referendum passed on 28 November 2003 without a referendum being called. The law entered into force on 10 December 2003 in the version already submitted in draft form as part of the 3rd report to the CTC. Liechtenstein accordingly now has effective legislation at its disposal in all areas dealt with by resolution 1373 (2001) (cf. "Stage A" of the CTC priorities).

1.2 Is the Financial Intelligence Unit (FIU) of Liechtenstein adequately structured, empowered and staffed (financially and technically) to perform its mandated functions in full? Please provide data concerning the requirements referred to immediately above.

The FIU Act of 14 March 2002 (Liechtenstein Legal Gazette LGBl. 2002 No. 75, article 5, see Annex) mandates the FIU to perform various tasks: In addition to its core responsibility, namely the

* Annexes are on file with the Secretariat and are available for consultation.

receipt, analysis, and dissemination of suspicious activity reports, the gathering of information is of particular note in the area of the suppression of financing of terrorism. The attached technical paper, published by the Director of the FIU, provides information on the FIU's work in this area and on the daily activities and understanding of the role of the FIU.

The FIU currently has a staff of 6 and is divided into the following areas: Management and Management Assistance, Strategic Analysis, Preliminary Analysis, Operational Analysis, IT Management (for details, see attached organizational chart). The FIU also has a modern and powerful electronic database at its disposal and corresponding analysis tools. In addition, the FIU has direct access to numerous external databases (LexisNexis, Dun & Bradstreet, etc.).

The structure and resources of the FIU have so far proven to be effective. All essential areas of responsibility are covered. Thanks to the excellent training and high motivation of the staff, it is even possible to overcome bottlenecks in the operational analysis that may arise due to surges in the number of suspicious activity reports (see attached 2003 progress report) and the resulting demands on analysis. The question of whether to increase the number of staff (in accordance with the recommendations voiced by MONEYVAL in its report on the 2nd evaluation of Liechtenstein, see attached summary) is being considered by the Government as part of its budget discussions.

The budget of the FIU is currently 240,000 Swiss francs (not counting staff salaries). With this budget, the FIU is able to fulfill its responsibilities and also render international technical assistance; see in particular the activities of the FIU management as independent law enforcement experts for the IMF/World Bank (Oman, Luxembourg) and the FATF (Russian Federation).

1.3 Please indicate the financial magnitude of the assets frozen because of their suspected connection with the financing of terrorism.

As already mentioned in the 3rd report submitted to the CTC, a total amount of 182,000 Swiss francs is currently frozen in Liechtenstein due to a possible relationship with the financing of terrorism. This amount has not changed since the beginning of 2002. For an explanation of the amount, please see the report of Liechtenstein to the Security Council Committee established pursuant to resolution 1267 (1999), published as S/AC.37/2003/(1455)/52, paragraph 12.

1.4 The first report of Liechtenstein states (at page 10), "six STRs (Suspicious Transaction Reports) have been submitted under this procedure so far and that all of these were forwarded by the FIU to the Office of the General Prosecutor. They are currently being examined". The CTC would appreciate receiving an update of such information and an account of the number of STR received by the FIU.

The number of suspicious activity reports submitted to the FIU in connection with the suppression of terrorist financing is still six. The investigations conducted by the Office of the Public Prosecutor on the basis of the documents accessible in Liechtenstein have so far not led to a substantiation of the

suspicion of terrorist financing in any of the cases. All documents obtained in this connection have been submitted to foreign authorities pursuant to requests for legal assistance.

1.5 Please outline the legal provisions which are in force in Liechtenstein in order to regulate alternative money transfer agencies or services. Can money remittance/transfer services engage in business in Liechtenstein without being registered or licensed?

Alternative money remittance/transfer services operated by so-called money remitters must be licensed with the financial market supervisory authority in accordance with the requirements of banking law (article 15(1) of the Banking Act in connection with article 3(1) and (3) of the Banking Act). This regulation is also applicable in particular to informal money remittance systems.

These money remitters are fully subject to the same due diligence obligations as other financial intermediaries. They are in particular required to undertake the identification of their clients and of the beneficial owner, to store the relevant documentation for five years, and to submit a suspicious activity report to the FIU in case of suspicion.

Money remitters operating in the market without a license may be prosecuted in accordance with article 63(1) of the Banking Act (see Annex). If legal provisions pertaining to the suppression of money laundering are violated, articles 14-16 of the Due Diligence Act (DDA) also provide for administrative and criminal legal action.

1.6 Has Liechtenstein provided its administrative, investigative, prosecutorial and judicial authorities with specific training aimed at enforcing its laws in relation to:

- Typologies and trends to counter terrorist financing methods and techniques?
- Techniques for tracing property, which represents the proceeds of crime or which is to be used to finance terrorism, with a view to ensuring that such assets are frozen, seized or confiscated?

Specific training was provided to key officials of the prosecutorial authorities. In particular, Liechtenstein prosecutors participated in an Asset Forfeiture and Money Laundering Seminar held by the U.S. Department of Justice in Munich (24 – 28 June 2003). Furthermore, they attended the Conference of the International Association of Prosecutors held in Washington D.C. on "The Fight against Terrorism: A Global Effort" (10 – 14 August 2003).

Two lawyers of the Liechtenstein Office of the Public Prosecutor are currently enrolled in a postgraduate program, "Executive Master on Economic Crime Investigation", at the Lucerne School of Business, Switzerland.

Furthermore, the Liechtenstein investigative authorities are in permanent contact with officials and experts on financing of terrorism abroad (in particular Switzerland, Germany, Austria, United States) and are engaged in ongoing information exchange on related questions and remedies (best practices,

case studies, etc.). Further internal capacity building is provided through the Task Force on the Fight against Financing of Terrorism (cf. 1st CTC report, paragraphs 28, 49).

Effectiveness of counter-terrorism machinery

1.7 Liechtenstein states in the third report (at page 4) that the draft anti-terrorism package proposed by its Parliament will add new terrorist offences to the Criminal Code which will enable Liechtenstein to comply with some of the requirements of Paragraph 2 of the Resolution. The CTC would appreciate receiving a progress report on the enactment of those legal provisions.

For a complete discussion, please refer to paragraph 1.1 of this report.

1.8 Sub-Paragraph 2 of the Resolution requires each Member State, inter alia, to have in place effective police, intelligence and/or other structures as well as adequate legal provisions to detect, monitor and apprehend those involved in terrorist activities and those supporting terrorist activities with a view to ensuring that those persons are brought to justice. The CTC would be grateful for information concerning the use of special investigative techniques in the fight against terrorism, such as undercover police operations, controlled deliveries and the monitoring and/or the interception of terrorist communications (such as the internet, radio, audio-visual media and other advanced communications techniques).

Based on the Code of Criminal Procedure, the National Police have the possibility to make use of special investigative techniques, such as undercover police operations (sting operations are not permitted), interception of communication (fixed line telephones, mobile phones, etc.), and controlled delivery of cash (based on trilateral police cooperation between Liechtenstein, Switzerland and Austria). Furthermore, the Police have a specially trained economic crime unit designed to combat all forms of financial crime, including terrorist financing, as well as a special IT Unit equipped to intercept internet communication. So far, no special investigative techniques have needed to be used in the fight against terrorism and its financing in Liechtenstein, due to the lack of direct terrorist activities on Liechtenstein territory (cf. S/AC.37/2003/(1455)/52, paragraph 1).

1.9 Are there programs in place in Liechtenstein to protect members of the judiciary, law enforcement officers, witnesses and persons willing to provide information from intimidation by terrorists?

No such programs are currently in place. Related developments are closely observed by the Liechtenstein Government, and pertinent measures could be adopted swiftly if need be.

1.10 The CTC would be grateful to receive a progress report on ratification and implementation by Liechtenstein of the International Convention for the Suppression of the Financing of Terrorism, 1999.

The Convention for the Suppression of the Financing of Terrorism (1999) entered into force for Liechtenstein on 8 August 2003. Complete implementation is ensured by the legislative amendments mentioned in paragraphs 1.1 and 1.7 of this report.

1.11 Could Liechtenstein provide the CTC with information relating to the number of persons prosecuted for the financing of terrorist activities?

There have been no prosecutions so far.

Effectiveness of customs, immigration and border control

1.12 Effective implementation of paragraphs 1 and 2 of the Resolution requires effective customs and border controls to prevent and suppress the financing of terrorist activities. Does Liechtenstein impose controls on the cross-border movement of cash, negotiable instruments, precious stones and metals (for example, by imposing an obligation to make a declaration or to obtain prior authorization before any such movements are made)? Please provide information concerning relevant monetary or financial thresholds.

Pursuant to the Customs and Currency Union with Switzerland (see first CTC report, paragraph 61), the customs and border controls are conducted by Swiss authorities in accordance with Swiss law. Special Liechtenstein provisions do not exist; cooperation with the Swiss authorities is unproblematic.

1.13 Please outline the legal provisions and other procedures in place which govern the acquisition of Liechtenstein citizenship and a Liechtenstein passport.

The Law on the Acquisition and Loss of Liechtenstein Citizenship of 4 January 1934 (Citizenship Act, LGBl. 1960 No. 23, see Annex) is based on the fundamental principle of descent (ius sanguinis): children of married and unmarried parents acquire Liechtenstein citizenship at birth, if at least one parent (father or mother) is a Liechtenstein citizen at that time.

A foreign adoptive child acquires Liechtenstein citizenship by adoption, if the adoption by a Liechtenstein adoptive father or adoptive mother takes places before the age of 10.

Upon application, citizenship may be acquired through marriage, if essentially the following conditions are jointly met: renunciation of previous citizenship, proof of 12 years of residency in Liechtenstein (years of marriage count double), proof of 3 years of marriage.

Foreigners may also acquire Liechtenstein citizenship through "simplified acquisition" or "conferral":

Simplified acquisition of citizenship (§ 5a of the Citizenship Act) may be claimed by a foreigner if essentially the following conditions are jointly met: renunciation of previous citizenship, proof of 30 years of residency in Liechtenstein (years below the age of 20 count double), proof of continuous physical residency in Liechtenstein for the last 5 years prior to the application, no criminal convictions.

Liechtenstein citizenship may be conferred (§ 6 of the Citizenship Act) if essentially the following conditions are jointly met: legal capacity, age of majority, power of judgment of the applicant, 5 years of continuous residence in Liechtenstein immediately prior to the application, assurance of acceptance into a municipality. The conferral of Liechtenstein citizenship is discretionary, unlike the other means of acquisition, to which a legal entitlement exists if the conditions are met. The authorities must evaluate the application in the context of whether naturalization would be appropriate in view of State and public interests.

The acquisition of Liechtenstein citizenship can be denied if criminal proceedings are pending against the applicant, a legally binding sentence of imprisonment has been passed, or other grounds indicate that the applicant poses a threat to public peace, security, and order (§ 5 of the Citizenship Act).

The legal provisions on the acquisition of a Liechtenstein passport are contained in the Citizenship Documents Act (CDA, LGBl. 1986 No. 27, articles 15 – 27, see Annex). In principle, every Liechtenstein citizen is entitled to claim a passport, if no grounds for denial exist. These grounds are enumerated in article 23 of the CDA and essentially encompass certain situations arising under administrative or private law. Once issued, a passport may be revoked if the holder is being prosecuted for a crime or is sentenced (article 24 of the CDA). In addition, the passport must also be revoked if the holder's presence abroad gravely interferes with the interests and reputation of the country or if the internal or external security of the country would be endangered (article 25(h) of the CDA).

In summary, an abuse of Liechtenstein citizenship and passport rights by terrorists can be practically ruled out, given the strict conditions for claiming citizenship or a passport, as well as the grounds for denial and possibilities of revocation. To date, the responsible authorities know of no relevant case relating to terrorist activities and the financing of terrorism.

1.14 The CTC is aware that Liechtenstein may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Liechtenstein's response to these matters as well as details of any effort to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.

The Annex contains a summary of the report by Moneyval on the 2nd Mutual Evaluation of Liechtenstein. The very comprehensive report may be obtained through the Permanent Mission of Liechtenstein to the United Nations in New York. The report published by the IMF/World Bank in September 2003 (Offshore Financial Center Assessment) on Liechtenstein may be obtained directly in electronic form at www.llv.li or www.imf.org.

2. Assistance and guidance

2.1. The CTC wishes to emphasize once more the importance it attaches to the provision of assistance and advice in connection with the implementation of Resolution 1373.

2.2. The CTC's Directory of Assistance is frequently updated to include new relevant information on available assistance. The CTC notes, with appreciation, that the Government of Liechtenstein has offered to provide assistance to other States in connection with the implementation of the Resolution, and would appreciate receiving information concerning areas in which the Government of Liechtenstein is in a position to provide such assistance, for inclusion in the Directory of Assistance.

The Annex contains more detailed information on the technical assistance offered by Liechtenstein, for inclusion in the database.

Annexes:

1. FIU progress report 2003
2. FIU organizational chart
3. FIU Act
4. The Financial Intelligence Unit (FIU): Activities; Michael Lauber, October 2003
5. Banking Act (excerpt)
6. Citizenship Act (excerpt)
7. Citizenship Documents Act (excerpt)
8. Moneyval report (summary)
9. Information on technical assistance